

## Defense wants Ruiz case dismissed for misconduct

Kristin M. Kraemer, Herald staff writer

Defense lawyers in the murder trial of Vicente Ruiz are asking a judge to dismiss the 22-year-old case, blaming the Franklin County Clerk's Office jury administrator of government misconduct.

Kevin Holt, one of Ruiz's lawyers in the case that stems from the 1987 auto body shop shooting, filed a stack of motions Monday morning as the court started its second week of jury selection.

"This jury pool should be stricken, and this case should be dismissed for state misconduct and/or mismanagement," Holt wrote in one of the motions.

Based on prejudicial answers already given by numerous prospective jurors and "extensive media coverage from 1987 to date, it is clear that this jury pool and this community have come to the conclusion that Vicente Ruiz is guilty, and that a fair trial is a waste of county time and resources," he added. "This conclusion cannot be set aside by this jury pool."

If Superior Court Judge Cameron Mitchell denies the dismissal motion, Holt said the court then should consider striking the jury panel and moving the trial out of Franklin County.

The motions were not argued Monday because prosecutors only received the documents in court and needed time to read and research the issues. One motion alone was about 140 pages with supplemental papers showing headlines of various Ruiz stories that have been in the Tri-City media in the past couple of years.

Ruiz, 45, is charged in Franklin County Superior Court with five counts of aggravated first-degree murder and one count of attempted first-degree murder.

His first trial in 2008 on the same charges ended in a mistrial.

Prosecutors allege Ruiz was one of two people who opened fire inside the Medina Auto Body Shop in Pasco in October 1987. Ruiz's cousin already was convicted for his role in the shootings and is serving a life sentence.

Two Pasco brothers who are neighbors were questioned Monday as prospective jurors. The brothers also have a brother who works as a corrections officer in the Franklin County jail.

Attorneys seemed in awe of the chances that two direct relatives would be in the same jury pool that started with 162 people.

"I don't know that we've ever seen two brothers called in on the same jury pool," Franklin County Deputy Prosecutor Frank Jenny said to the first brother during his questioning. "We experience something new every time in this business, I guess."

The brothers were questioned one after the other. When the second man was asked if they agree on everything, he laughed and replied, "We're brothers."

In the end, one brother was excused while the second remains on the prospective list.

Another juror said her fianc was on the 2008 jury panel.

The woman initially told lawyers that she had not seen any recent Herald stories on the case, but then remembered reading about the mistrial with her fianc when his jury service was over.

She was not excused, even though Ruiz's attorneys argued she may have too much knowledge of the case or may remember details during the trial.

A man was released from the panel when he told the court he "cannot impartially sit on a jury where a Mexican is accused." He admitted that his mindset isn't a good one but said he has problems with Hispanics.

Jury selection started April 19 with 162 people responding to the courthouse for a jury summons. They were dismissed for the day after filling out an eight-page questionnaire.

The following day, the prospective jurors returned to court for introductions of all the parties.

Holt and co-counsel Bob Thompson have repeatedly said in the last week that the jury panel is tainted because people talked about the case when trying to figure out why they were all packed into the courtroom.

Further individual questioning has also turned up a few jurors who ignored Mitchell's orders and discussed the case while locked up in smaller groups in a jury room. Those people who professed that Ruiz was guilty and claimed he should be executed for his alleged actions were quickly excused from the jury once the court learned what they'd done.

In addition to asking jurors if they overheard or were involved in any conversations about the case, defense lawyers have been trying to find out if the media coverage over the years has in any way prejudiced each candidate. Holt has noted that 122 of the 162 initial candidates indicated on their questionnaires they may have additional information that could affect their impartiality.

A good number of potential jurors have been employed in law enforcement or the legal field, or are closely connected to such people. The pool has included a Pasco officer who is on the witness list and another Pasco officer who was in the investigations unit in 1987.

Holt said it was misconduct by the jury administrator for not separating witnesses and police officers from potential jurors.

Monday, Mitchell denied a prosecution motion that would have limited defense questions on the issue. He said Holt and Thompson can keep asking people if they feel there has been an "angle or slant as to the coverage" and if they've made up their mind about Ruiz based on it.

Holt, in his motion to change the trial's venue, said the defense feels it is impossible to select a fair and impartial jury in the county.

He wrote: "Defense counsel further believes that the general knowledge within the community, the pervasiveness of the media coverage over 20 years and the number of individuals in a small county who are related to or have personal relationships with the witness, have created a perfect storm of juror prejudice."

Juror selection continues today in the Franklin County Courthouse.

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Read more: <http://www.tri-cityherald.com/2010/04/27/992156/defense-wants-ruiz-case-dismissed.html#ixzz0mKLagXuS>